

**TOWN OF KENT
PLANNING AND ZONING COMMISSION**

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APRIL 9, 2015 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, April 9, 2015 at 7:00 p.m. in the Kent Town Hall.

1. CALL TO ORDER

Mr. De Paul called the meeting to order at 7:03 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Dennis De Paul, Acting Chairman; Karen Casey, Richard Chavka, Darrell Cherniske, Alice Hicks, Adam Manes, Matt Winter

Staff Present: Donna M. Hayes, Land Use Administrator

Mr. De Paul elevated Mr. Chavka to voting status.

Mr. Winter moved to add items 6.B.5., 6.B.6., and 6.B.7. to the agenda. Mr. Cherniske seconded and the motion carried unanimously.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of March 12, 2015.

Mr. Winter moved to approve the Regular Meeting Minutes of March 12, 2015, as written. Ms. Hicks seconded and the motion carried unanimously.

3.B. Special Meeting Minutes of March 26, 2015.

Mr. Manes moved to approve the Special Meeting Minutes of March 26, 2015, as written. Mr. Cherniske seconded and the motion carried unanimously.

3.C. Special Meeting Minutes of April 2, 2015 (minutes to be handed out at 4/9/15 meeting).

Mr. Winter moved to approve the Special Meeting Minutes of April 2, 2015, noting that he was not in attendance at the meeting, was doing so in the absence of Mr. Johnson and because Mr. De Paul or Ms. Hayes should not approve them. Mr. Manes seconded and the motion carried unanimously.

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4. PUBLIC COMMUNICATIONS (ORAL):

No action taken.

5. OLD BUSINESS:

5.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

No action taken.

5.B. DISCUSSION AND POSSIBLE DECISION

Mr. Manes moved to hear agenda items 5.B.1. and 5.B.2. at the end of the meeting. Mr. Cherniske seconded and the motion carried unanimously.

5.B.1. Proposed Town-Wide Economic Development Projects

Ms. Hayes reminded the Commission that they were asked at the last meeting to come up with a few suggested town-wide economic development projects. She told the Commission that Mr. Johnson had provided her with his suggestions since he would not be at this meeting. Mr. Johnson's comments are: What are the one or two things that the zoning regulations do to harm businesses? What can P&Z do to help businesses? What are your thoughts regarding offsite signs, i.e., farmstand signs? Mr. Johnson also wanted Ms. Hayes to ask the Commission how they wanted their suggestions submitted: through the First Selectman or directly to Goman+York. The Commission said that they would prefer that the suggestions be sent directly to Goman+York.

It was noted that the suggestions listed above were the only submissions. Mr. De Paul said that he has a couple of ideas that he will submit to Ms. Hayes and asked the rest of the Commission to do the same.

In line with this topic, Mr. De Paul gave a synopsis of the meeting that he, Mr. Johnson and Ms. Hayes had with Mr. David Driver of Goman+York. He explained that they had walked up and down Maple Street Extension giving Mr. Driver an opportunity to see the Industrial District. Since there was no quorum, no decisions were made, but Ms. Hayes told the Commission that Mr. Driver was looking forward to seeing the Commission's suggestions regarding the economic development projects. Mr. Driver said that based on this meeting he will be pulling together information on brownfield remediation and possible grants.

No action taken.

5.B.2. Rewrite of Zoning Regulations

Ms. Hayes reminded the Commission that the next special meeting is scheduled for April 23rd at 6:00 p.m. She also advised the Commission that she had asked Mr. Chalder for his availability for May and the first week of June. Once that information is received, Ms. Hayes said that she will do a "doodle poll" and schedule the May meeting.

No action taken.

6. NEW BUSINESS:

6.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

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6.A.1. Application #'s 14-15SP and 15-15C, High Watch Recovery Center, Inc., 62 Carter Road, demolition of existing dorm and director's house, construction of new 38 bed dormitory, geothermal wells and all related site work, Map 14 Block 22 Lot 7.

Mr. De Paul opened the public hearing at 7:05 p.m. and read the legal notice into the record.

Mr. John Mack, PE, from Stuart Somers Company and Mr. Vincent Roberti, Director of Facilities for High Watch, were present to address the Commission. Mr. Mack explained that the plan is to demolish one of High Watch's existing dormitories containing 22 beds and the building called the "Director's House". The buildings called "The New Dorm" and "The Jackman House" will remain. The buildings that will remain have their own septic system. Mr. Mack informed the Commission that the Inland Wetlands Commission had approved the original plan but the original location of the geothermal wells were being relocated due to the State Health Department's determination that their original location was too close to the well which supplies water to the guests. The geothermal wells will now be located in the existing parking lot in front of the dining hall to the east of the build site. With regard to the parking spaces, all but two will remain with those two being relocated to the other side of the existing drive.

Mr. Mack continued that the only grading will be around the new building which will be stepped into 3 sections with the middle section having a full basement. The north and south sections will have a crawl space only. The roof drains will be directed to the new underground galleries to handle the minimal increased impervious surface. There will be new pathways with entrances to each of the buildings. There will also be a maintenance entrance.

Mr. Mack said that the existing DEEP septic system across the street will be added to. The new flow will be directed to the new system with minimal flow to the original.

Mr. Cherniske asked if the building that is being demolished close to Carter Road would be replaced. Mr. Mack said that the area would be turned into a grass area. Mr. De Paul asked if there will be an increase to the number of beds and Mr. Mack said that there would not. Mr. Manes asked if there would be a net change to the number of parking spaces and Mr. Mack replied that there was not. He continued that most of the parking is for staff and the overflow parking is located in the southeast side of the property. Mr. Mack said that there is minimal coverage since the total acreage of the property is approximately 192 acres.

Mr. De Paul asked if the dorm to be demolished was wood frame and both Mr. Roberti and Mr. Mack replied that it was. Mr. Mack commented that the architect who designed the new office building had designed the new dorm. Mr. De Paul asked if the new building will be sprinkled and Mr. Roberti said yes. Mr. Mack said that the tanks will be located in the crawl space. Mr. De Paul asked if the geothermal system was closed loop and Mr. Mack said that it was.

Mr. Winter asked if there was something wrong with the existing septic system. Mr. Mack said that there was not. Mr. Winter asked why they were enlarging it if the bed count was remaining the same. Mr. Mack said that they were redirecting the flow to the new system which will be handling the new flow. The new system was a new design that fits into the guide lines dictated by the DEEP. He added that the existing septic system was 30 years old. Mr. Roberti said that they were also keeping the existing system so that the new system could use the existing sewer line that runs under Carter Road. Mr. Cherniske said that the two systems were fairly large and close to Kent Falls Brook. He asked if any effluent had ever been found in the existing monitoring wells. Mr. Mack said no and added that the wells are 18' deep. Mr. Cherniske said that he noticed that another one was being installed and asked how the installation will be handled. Mr. Mack replied that they have a small machine that will be doing the work. He continued that applications have been submitted to both the DEEP and Ms. Weber of Torrington Area Health District.

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Mr. De Paul asked if the Fire Marshal will have to approve the plans and Mr. Mack said that he would. Mr. De Paul then asked if there will be any exterior lighting on the new building. Mr. Roberti replied that there will be no lighting on the new building and the only other lights will be ballard type of lights at the main entrance of the new building. The existing pole lighting is sufficient for the area and none will be added. Mr. Winter asked if the stone walls will be retaining walls and Mr. Roberti said that they were strictly decorative.

Mr. Winter asked if the new storm water galleries were a DEEP requirement and Mr. Mack said that they were required by IWC because the leader drains will be directed there. Mr. Winter asked if that was a requirement of the Town's Inland Wetland Commission. Ms. Hayes explained that it was not a formal requirement. She continued that the ground is fairly flat in that area, but the grade does slope towards the wetland area behind the building. Ms. Hayes informed the Commission that the Inland Wetlands Commission had approved the original plan showing the location of the geothermal wells at the back of the new building. She understood that they were required to be moved to the parking area because the State determined their location was too close to the existing public water supply well. Mr. Mack said they did the same thing when they built the new office.

Mr. Chavka asked if Ms. Weber, Town Sanitarian, had approved this plan. Ms. Hayes said that she had not received her approval or approval from the State. When asked if Inland Wetlands had approved the project, Ms. Hayes said they had and explained that the applicant had come before the Inland Wetlands Commission because of the location of the geothermal wells. She added that the generator pad and a very small area of the new building is located in the buffer area. Mr. Roberti informed the Commission that even though the State does not have any regulations on the installation of geothermal wells, they do require a 200' setback from an existing well. That was the reason why High Watch had to move the geothermal wells outside of that setback. Mr. De Paul asked Mr. Roberti if they will be creating a well or a loop. Mr. Roberti responded that it will be a closed looped and that they will not be extracting or adding any water to the ground. Mr. Winter commented that they look like they are deep wells and that they were not flat loops. Mr. De Paul asked if there will be some type of antifreeze in the tubing and Mr. Roberti said he was told that they will contain 25% food grade glycol. Ms. Hayes asked how the slurry from the well drilling will be handled and Mr. Roberti said that it will be contained and then removed from the site in an effort to protect the parking lot. Mr. Winter asked Ms. Hayes if Inland Wetlands had reviewed the erosion control and silt fencing plan and Ms. Hayes said that they had. Mr. Winter asked if all the guests will be moving into the new dormitory and Mr. Roberti said that approximately half of the guests will be lodged there. With this project, there will be 2 active dorms for a total of 78 beds.

Mr. Cherniske said that since they were pulling 22 beds to the interior would that will eliminate light emission onto Carter Road and Mr. Roberti said that it definitely would. Mr. Cherniske also asked if there were any beds in the log cabin and Mr. Roberti said that there were, but they were not used. Mr. Cherniske questioned the pole lamps that lead from the main campus to the log cabin and asked if they need to remain on all night. Mr. Roberti said that even though the log cabin was empty, the lights were needed for safety reason. When asked if the pole lights on the campus stay on all night long, Mr. Roberti said that a majority of them are on a timer. Most of the guests have to be inside by 11 and they are switching the lights to LED.

Ms. Hayes informed the Commission that this application has not gone to Anchor Engineering for review and asked if they wanted her to send it to them. Mr. Manes asked if the septic and storm water plans were DEEP approved plans. Mr. Mack said that DEEP has given verbal approval and Mr. Roberti added that they usually don't get a permit, but a letter of approval and then a permit to discharge is issued when the project is done. Mr. De Paul asked Mr. Winter if he thought it would be necessary to send the plan to Anchor for review. Mr. Winter replied that he did not think so since the silt fencing and erosion controls had been approved by the Inland Wetlands Commission. Ms. Hayes said that Inland Wetlands had them add additional erosion controls. Mr. Winter continued that since the approvals for the new septic were coming from the State, he did not see anything concerning with the geothermal wells or the new building. He did ask who inspects the geothermal wells. Mr. Roberti said that a permit will need to be submitted to Ms. Weber, but did not think she would require water

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samples. Ms. Hayes said that a plumbing permit will need to be pulled for the installation and that the Building Official will be inspecting that portion of the installation.

Ms. Hayes asked how many cubic yards of disturbance will result from the construction of the new dorm. Mr. Mack said that it would be mostly for the foundation and the basement. He anticipates less than 500 cubic yards. Mr. De Paul asked what will happen to the disturbance. Mr. Roberti said that it will be stockpiled and Mr. Mack added that some of it will be used on the north end for grading. Ms. Hayes said that according to the regulations, the engineers will need to approve buildings of 3,000 sq. ft. or more unless the Commission determines it is not necessary. Mr. Winter said that the engineers will probably require a new grading plan but did not think it will be necessary since they will be using the soils on site.

Mr. Winter asked how big the building was and Mr. Mack said that it was 160' x 40'.

Mr. De Paul asked for additional comments. Having none, he recommended keeping the public hearing open to accept information from the DEEP. Mr. Winter said that the only open question for him would be engineering review and agreed with Ms. Hayes' bringing the regulation requirement up. Mr. Manes agreed that it should remain open until the approvals are received from the DEEP and Torrington Area Health District. He also feels that it should be sent to Anchor Engineering for review.

Mr. Winter moved to keep the public hearing open and to continue Application #'s 14-15SP and 15-15C, High Watch Recovery Center, Inc., 62 Carter Road, demolition of existing dorm and director's house, construction of new 38 bed dormitory, geothermal wells and all related site work, Map 14 Block 22 Lot 7 to the next regular meeting. Mr. Cherniske seconded.

During discussion, Ms. Hayes told the applicant that she would send the information to Anchor Engineering and communicate any questions or concerns directly to Mr. Mack for response. Mr. Winter asked that a letter from the DEEP be submitted. Mr. Roberti said that he will ask Mr. Mack to start working on that as soon as possible.

After discussion, the motion carried unanimously.

- 6.A.2. Application #'s 16-15SP and 17-15C, Kent Affordable Housing, 15 Maple Street Extension, phase 2 construction of 5 affordable housing units, attached manager's office and associated site work, Map 4 Block 42 Lot 4.

Mr. De Paul opened the public hearing at 7:40 p.m. and read the legal notice into the record.

Ms. Virginia Bush-Suttman was present to the address the Commission. She explained that the application was for the second phase of Stuart Farms affordable housing. Ms. Bush-Suttman reminded the Commission that she had received a variance from the ZBA regarding the maximum lot coverage and the design of this new area is within the variance. Ms. Bush-Suttman told the Commission that she has a tight timeframe as the application for the grant must be submitted by June 10, 2015. If that date is missed, it will end up causing a 6 month delay. If the deadline is met, they anticipate starting the project in the spring of 2016. She then introduced Mr. Stephen Lasar, Architect, Mr. Brian Neff, Professional Engineer and Mr. David Barto from Housing Enterprise.

Mr. Neff explained that the new project consists of 2 separate buildings containing 5 apartments and a manager's office. The new units will be accessed using the existing driveway; each unit will be assigned 2 parking spaces with some of them under the building; there will be one handicap parking space. He continued that both water and sewer are Town supplied. The storm water control system will be installed for each building. They will be similar to the existing building. There will be a limited amount of disturbance with soil and erosion control measures added at the lower part of the site. The soil stockpile will be located within the work area with nothing

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being removed from the site. The existing transformer will serve the two buildings. Mr. Neff referred the Commission to the erosion controls and said that because it is a small site, he feels they can manage any type of erosion with the plan submitted.

Mr. Lasar told the Commission that there are two buildings; a one story, 2 apartment building on the lower portion of the property, closest to Maple Street Extension. Those 2 apartments contain one bedroom each. The second building will be farthest from the road, will consist of 3 townhouses and the supplied outside parking will be in between the two buildings. There will be two townhouse apartments with 2 bedrooms and one townhouse apartment with 1 bedroom. Because of the layout, you will not see the parking from Maple Street Extension. The manager's office will be located on the southerly side of the townhouses. Mr. Manes asked if there will be a fulltime manager and Ms. Bush-Suttman said that he will not be fulltime, but will be available on a regular basis. Mr. Lasar said that the buildings will be solar ready and they are hoping that it will be part of the project.

Mr. Manes asked how tall the townhouse was. Mr. Lasar said that they are 28' from average grade to average roof height. The front units are very low and there are only 5 external parking spaces. Mr. De Paul asked about exterior lighting. Mr. Lasar said that there will be 1 new lamp pole with a few ballards for the walkways. Mr. Manes asked if the lights stay on all night long and Ms. Bush-Suttman said they are timed to go off at midnight. Mr. Winter asked if the construction sequence had taken into account disturbance to the residents currently living in the existing building. Ms. Bush-Suttman said that they probably would not like it, but that most of the work was being done to the northwest side of the existing building. Mr. Lasar said that the construction vehicles will use the existing driveway, but will veer off to the north west shortly thereafter. There will be no change to the existing traffic flow.

Ms. Casey asked if they could explain where the walkways were. Mr. Lasar explained that the walkways to the townhouses will be on the outer edges with walkways to the other units directly in front. Mr. Winter expressed concern on the steepness of the walkways on the outer edges of the townhouses. Mr. Neff said that the northwest entrance would be a 6' incline. Ms. Hayes asked if it would be better to have steps installed. Mr. Neff said that it will be a hard surface with southern exposure. Mr. Manes said that he has the same concern especially after this past winter. Mr. Barto said that there will be entrances to each unit through the garage possibly eliminating the need to use the steep walkways during inclement weather.

Mr. Manes asked about the building lighting. Mr. Lasar said that there will be apartment lighting per code, but they will be on the tenant meter. Mr. De Paul asked if they could be downward in nature. Mr. Manes said that he is still concerned about the area lighting. Ms. Bush-Suttman said that when the lighting was installed for phase 1, the lighting requirements were very strict. Since that time, 2 poles have fallen down and have not been replaced.

Mr. Chavka asked if this new building will be hooked up to the sewer. Ms. Hayes said that they would. Mr. Chavka asked if the state had to approve the hookup. Mr. De Paul replied that if any approval is required it should come from the Sewer Commission. Ms. Hayes replied that a letter could be required from them if the Commission feels it is needed. Ms. Bush-Suttman stated that she has the letter from the Sewer Commission and would forward it to Ms. Hayes for inclusion in the file.

Ms. Casey asked if there were fire hydrants in the area. Ms. Bush-Suttman said that the nearest one would be at the railroad crossing with another at the actual fire house. Mr. Manes asked if the buildings will be sprinkled and Mr. Lasar said that they would not and that the townhouses would have 2 hour separation walls and the ranch style has 1 hour separation walls.

Mr. Chavka asked if this would require an engineering review also. Mr. De Paul said that in his opinion, the first project was done very well and feels that this project will also. Unless there were serious concerns about the

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project and because of the time constraint, Mr. De Paul did not think it would be necessary. Mr. Cherniske and Mr. Manes both agreed.

Mr. Winter asked about the retaining wall behind the townhouse. Mr. Lasar said that it is a short wall and was only placed there to keep it at grade. Mr. Winter asked how it would be built and Mr. Lasar said that it would be dryset with mortar at the back. He continued that a 2 or 3' retaining wall does not need to be engineered. He continued that it was for a change of grade and not a retaining wall.

Mr. Manes asked if there was any concern with the runoff from the back of the property. Mr. Lasar said that there will be a swale. Mr. Neff said that they are collecting the runoff from the buildings and parking areas and the natural runoff will be guided around the buildings which is where the runoff is currently going. Mr. Lasar said that they only plan on taking down 2 trees and possibly relocating a couple of new trees that were planted during phase 1. Ms. Hayes asked if Mr. Osborne, Highway Foreman, had seen the plan. Mr. De Paul asked if the applicant would be against a condition regarding runoff. Mr. Winter said that they are diverting and concentrating the flow into the swale.

Mr. Manes asked if the driveway on the adjoining property on the northwest side will be impacted during construction and Mr. Neff and Mr. Lasar said no.

Mr. Manes moved to close the public hearing at 8:10 p.m. Mr. Winter seconded and the motion carried unanimously.

Mr. Manes asked if there were any waivers, specifically to section 17.4.2. Ms. Hayes felt that could be waived by the Commission during its motion to approve.

Mr. Manes moved to table the discussion on Application #'s 16-15SP and 17-15C, Kent Affordable Housing, 15 Maple Street Extension, phase 2 construction of 5 affordable housing units, attached manager's office and associated site work, Map 4 Block 42 Lot 4 to the end of the meeting. Mr. Cherniske seconded and the motion carried unanimously.

Mr. Winter said that he is a little concerned with the storm water sheet flow and the temporary construction road. He feels that they are both something that can be captured in a condition that states that the property owner be responsible for correcting any runoff issues should they arise. Mr. De Paul agreed. Mr. Manes agreed and said that he did not think there would be a problem based on the engineering plans created by Mr. Neff. Mr. Cherniske said that there is a recharging system for the leader drains and there is a possibility that the runoff could be added later on. Mr. Manes said that he would like to approve it tonight but understands that Mr. Osborne had not seen it. Mr. Cherniske said that there were a lot of pluses in the design of the property. Mr. De Paul asked if a resolution had been created and Ms. Hayes said that she had not created one. Mr. De Paul asked if the resolution could be created within the next two weeks so that it could be discussed at the next special meeting on April 23rd. Mr. Cherniske agreed. Mr. Chavka asked if it would be possible to have Mr. Osborne take a look at the plan.

Ms. Hayes asked for the conditions. Mr. Manes said that if there is any excessive runoff from the site that the owners will have to make the proper modifications to correct that immediately. Mr. Winter said that "any impact on the roadway as determined by the highway department would be immediately corrected by the property owner." Mr. Winter said that would be the only condition. Ms. Hayes asked Mr. Manes if he was okay with the lighting plan. Mr. Manes said that he was satisfied with the lighting plan as presented and did not think that it should be included in the conditions of approval.

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Mr. Winter moved to continue Application #'s 16-15SP and 17-15C, Kent Affordable Housing, 15 Maple Street Extension, phase 2 construction of 5 affordable housing units, attached manager's office and associated site work, Map 4 Block 42 Lot 4 to the special meeting on April 23, 2015. Mr. Manes seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Modification to site plan application #72-07C, Housatonic Enterprises, Kent Green alternative signage program to include: one 2' x 3' wall sign; one 3' x 4' freestanding sign; and, one 1' x 3.5' marquee sign for SoDeliciousHomemade Bakery, Map 19 Block 42 Lot 8.

Ms. Hayes explained that, as part of the alternative signage program, any time a sign is changed a modification needs to be done to the site plan. Mr. Casey, representing Housatonic Enterprises, presented pictures of the signs for the new bakery along with their proposed locations. Ms. Hayes informed the Commission that the signs had received ARB approval.

Mr. Manes moved to approve Modification to site plan application #72-07C, Housatonic Enterprises, Kent Green alternative signage program to include: one 2' x 3' wall sign; one 3' x 4' freestanding sign; and, one 1' x 3.5' marquee sign for SoDeliciousHomemade Bakery, Map 19 Block 42 Lot 8. Ms. Hicks seconded and the motion carried unanimously.

Mr. Manes moved to hear agenda item 6.B.5. at this point in the meeting. Mr. Cherniske seconded and the motion carried unanimously.

6.B.2. Guy Mauri email dated February 24, 2015, re: Sale of Farm Products.

Mr. Winter recused himself from this discussion.

Ms. Hayes reminded the Commission that the reason Mr. Mauri's email was on the agenda was because they had a brief discussion at the last meeting regarding it and Mr. Johnson said that he would prefer discussing it at the next meeting. Mr. Mauri's initial question was how someone would go about "the sale of farm products". Ms. Hayes said that she responded via email advising him that the use is allowed via a special permit. Mr. Mauri questioned her response. She was now referring his email to the Commission for response.

The Commission agreed with Ms. Hayes' initial response to Mr. Mauri and Mr. De Paul asked that she send Mr. Mauri an email confirming that a farmstand does require a special permit and that a precedent has been established to that end.

No action taken.

Mr. Winter returned to the meeting.

6.B.3. Incentive Housing Zone Program Notice of Grant Award

Ms. Hayes reminded the Commission that at last month's meeting, she informed the Commission that the Incentive Housing Grant had been awarded. At that meeting, it was suggested that Ms. Hayes and Mr. Johnson prepare a letter to the two property owners advising them of the Grant award. In addition, it was decided that the letter request permission from the property owners, or an agent duly authorized to act on their behalf, to proceed with the acceptance of the grant by First Selectman Adams and to allow the Planning & Zoning Commission to

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move forward with Phase I of the housing program. The letters were sent and Ms. Hayes told the Commission that she is now in receipt of the signed permission letters.

Mr. Manes asked who had signed the permission letters and she told him that Mr. John Casey had. When asked if he was legally permitted to sign them, Mr. Casey, who was in the audience on another matter, stepped forward and explained that the Gordon E. Casey Trust was 75% owner of both properties and he was authorized to sign both letters on the Trust's behalf.

Ms. Hayes told the Commission that Mr. Johnson asked that a subcommittee be created to move forward. After discussion, it was decided that the subcommittee consist of Mr. Johnson, Mr. Manes, Mr. Winter and Mr. Chavka. Ms. Hayes said that she will work on the motion to create the subcommittee and add it to the April 23, 2015 special meeting.

No action taken.

6.B.4. Creation of Sub-Committee to Interview Land Use Clerk Applicants

Ms. Hayes let the Commission know that she had posted the Land Use Clerk job opening both internally for a week and then on the Town's website for a week. As a result of those postings, she has 3 candidates. In order to move the process along, she suggested that a subcommittee be created to do the interviewing. The subcommittee would include representatives from both the P&Z and Inland Wetlands Commissions and Mr. Bill Jenks, Building Official.

Mr. Winter moved to create the Land Use Clerk Interview Subcommittee consisting of 4 members Alice Hicks, Dennis De Paul, Marge Smith and Bill Jenks. This Sub-Committee will be charged with interviewing qualified candidates for the current open position of Land Use Clerk and creating a written hiring recommendation to the Board of Selectmen. Mr. Manes seconded and the motion carried unanimously.

Ms. Hayes said that now that the subcommittee was created, she will try to set up the interviews for the weeks of April 13th and 20th.

6.B.5. Modification to site plan application #72-07C, Housatonic Enterprises, 8 Green Pastures Lane, Kent Green alternative signage program to include one 3' x 4' freestanding sign for Kent Biomedical Acupuncture, Map 10 Block 42 Lot 2.

Ms. Hayes explained that this, too, was a modification to the alternative signage program for the Kent Green and explained where the new business and sign will be located. A copy of the sign design was presented to the Commission.

Mr. Winter moved to approve Modification to site plan application #72-07C, Housatonic Enterprises, 8 Green Pastures Lane, Kent Green alternative signage program to include one 3' x 4' freestanding sign for Kent Biomedical Acupuncture, Map 10 Block 42 Lot 2. Mr. Manes seconded and the motion carried unanimously.

6.B.6. Kent Conservation Commission Draft of the Right to Farm Ordinance – April 6, 2015.

Ms. Connie Manes, Chairman of the Conservation Commission, was present to speak to the Commission about the draft of the Right to Farm Ordinance. She advised the Commission that Attorney DiBella had provided input on the Ordinance and read his response into the record. Copies of the draft ordinance, Atty. DiBella's comments and the Conservation Commission's response are attached.

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After reading Atty. DiBella's response into the record, Ms. Manes said that she did not understand some of his comments especially the one about the proposed definition of "local". She continued that the Commission will make the change to who would adopt the ordinance based on Atty. DiBella's response.

Mr. De Paul said that one of the conflicts that he has come up with is the possibility of marketing outlet for goods produced elsewhere. He continued that Planning & Zoning has been trying to encourage local agricultural endeavors and would like the sourcing radius to be changed to 15 to 20 miles. Mr. De Paul commented that he has no interest in promoting New York agricultural. Ms. Manes said that it will be very difficult to assign a number of miles to the radius and that is why the Conservation Commission went with the list of counties. She suggested that a farmer might need to bring in products from neighboring towns and used Tom Levine's farm as an example which does not evoke a huge warehouse scenario. Ms. Manes continued that Cornwall considers his market to be a newer type of farm market that is treasured by the town's residents. Mr. Cherniske said that another example is the farm brewery that would not be able to succeed without sourcing some of the products from other towns. New farms will probably have to source from outside the area in order to be successful at the beginning of their farming endeavors. Mr. Manes said that he considers sourcing from other areas value added.

Ms. Manes reminded the Commission that this ordinance does not regulate the size of a farm. It is the responsibility of the Planning & Zoning Commission to address the regulatory issues. The ordinance is to curtail nuisance lawsuits. Mr. De Paul said that is a separate issue and that the definition of "local" is much more important. Ms. Manes said that if the Conservation Commission had better direction from the P&Z, a more acceptable definition of "local" might have been included. Ms. Manes said that they were looking at creating an ordinance that fell in line with what the Town wants and one that could not be used as a weapon against the local farmers. Mr. Winter said that he believes that there is no necessity for the definition of "local" in this ordinance stating that the word occurs only once outside of the definition. His recommendation was to remove it. Mr. De Paul asked if Mr. Winter had an objection to out of state retail sales on a farm. Mr. Winter said that he did not and said that he does not believe this is the purpose of the ordinance. Mr. Chavka asked if they are two separate functions. Mr. De Paul said that a farm becoming a retail outlet is a concern. Ms. Hayes countered and said that would be something that would be regulated through the conditions of a special permit given by the P&Z Commission.

Mr. De Paul said that there could be other manufacturing issues that might need to be addressed. Ms. Manes said that the ordinance does not permit or disallow manufacturing issues and is strictly to prevent nuisance lawsuits.

Mr. Winter said that after reading Atty. DiBella's comments, Ms. Manes only plans on changing who actually administers the ordinance. He feels that the locally grown language could be struck. Ms. Manes said that the Conservation Commission is curious about the general public's response to the ordinance and that one of the reasons for coming before the Planning & Zoning Commission was to see if the Conservation Commission was off base. Mr. De Paul said that he did not think they were off base and that he was personally all for the ordinance. Mr. Cherniske said that he liked New Milford's ordinance but likes this one better because it was drafted specifically for Kent. He suggested that it would be a good idea to mention the POCD requirement and the survey responses during the presentation to the general public. Mr. Rick Levy, a member of the audience, said that he agrees with Mr. Winter's statements. Mr. De Paul said that he was okay with the elimination of the definition of "local" and the inclusion of the listed neighboring counties. Mr. Manes said that the regulatory agency for the type of farmstand is directed by the Planning & Zoning Commission.

Mr. De Paul asked how Ms. Manes wanted the Commission to proceed. Mr. Cherniske said that the Commission should submit a letter of support indicating the legislative change and the elimination of the definition of "locally". Ms. Hayes agreed and said that ordinances are driven by the Board of Selectman and by giving this letter of support to the Selectman, they can then move forward to get it on the agenda for the May Town Meeting.

TOWN OF KENT PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES FOR APRIL 9, 2015

These are draft minutes. Corrections may be made by the Commission at the subsequent meeting.
Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Mr. Manes moved to have Ms. Hayes and Mr. Johnson draft a letter of support of the Right to Farm Ordinance created by the Conservation Commission to the Board of Selectman. The letter of support will be delivered to the First Selectman along with a copy of the revised ordinance. Mr. Cherniske seconded and the motion carried unanimously.

6.B.7. Brian Riva for Kent Town Center Association, 25 and 27 North Main Street, alternative signage program, Map 19 Block 14 Lot 2.

Ms. Hayes explained that the Kent Town Center is part of the alternative signage program and that Mr. Brian Riva was coming before the Commission to discuss the possibility of adding additional directional signage. Mr. Riva, representing the Kent Town Center Association, explained that, due to the layout of the buildings, the businesses located in the back of the complex could benefit from some additional directional signage. He continued that the signage would not be specific to the name of the business, but geared more toward the type of businesses that were located in back. The signs would be consistent in design with the signage project that is currently being implemented in the Northwest Corner. Mr. Riva presented a rendition of the sign along with a picture of where the sign could possibly be located. Ms. Hayes commented that the installation of this type of sign would help eliminate the use of the illegal wire signs in that complex.

The Commissioners all agreed that this could be a good idea and suggested that Mr. Riva pursue it by appearing before the ARB and then coming back to the Commission for a possible modification to the site plan.

No action taken.

Mr. Winter moved to return to the discussion on agenda item 6.A.2. Mr. Cherniske seconded and the motion carried unanimously.

7. STAFF REPORT:

7.A. Executive Session; Legal Litigation: 52 Kent Cornwall Road

Mr. Winter moved to go into Executive Session; Legal Litigation: 52 Kent Cornwall Road at the end of the meeting. Mr. Manes seconded and the motion carried unanimously.

Mr. Manes moved to go into Executive Session at 9:49 p.m. Mr. Cherniske seconded and the motion carried unanimously.

The Commission came out of Executive Session at 10:04 p.m.

8. REPORT OF OFFICERS AND COMMITTEES:

No action taken.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Town of Sharon Public Hearing on Proposed Zoning Regulation Amendments.

No action taken.

9.B. NHCOC Referral Response: Sharon Zoning Regulation Amendments

**TOWN OF KENT PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES FOR APRIL 9, 2015**

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No action taken.

- 9.C. Murtha Cullina, Statement for Services Rendered through February 28, 2015, Invoice #506932, \$247.50.

Mr. Manes moved to pay Murtha Cullina, Statement for Services Rendered through February 28, 2015, Invoice #506932, \$247.50. Mr. Winter seconded and the motion carried unanimously.

- 9.D. Administrative Permits and Certificates of Compliance

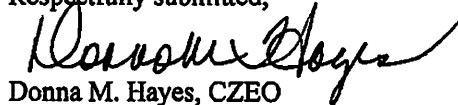
No action taken.

Mr. Winter left the meeting at this point in time and the Commission went into Executive Session to discuss agenda item 7.A.

10. ADJOURNMENT

Ms. Hicks moved to adjourn at 10:05 p.m. Mr. Cherniske seconded and the motion carried unanimously.

Respectfully submitted,



Donna M. Hayes, CZEO
Land Use Administrator

RECEIVED FOR RECORD
KENT TOWN CLERK
2015 APR 13 P 3:00
BY *Shirley Bell*
TOWN CLERK

TOWN OF KENT PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES FOR APRIL 9, 2015

These are draft minutes. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Chapter []. RIGHT TO FARM

Purpose and Intent.

Agriculture is a significant part of the Town of Kent's heritage, its rural character, and may constitute a vital part of the Town's future. It is therefore the declared policy of the Town of Kent and legislative determination of the Kent Board of Selectmen to conserve and protect agricultural land and to encourage agricultural operations and the sale of local farm products within the Town. It is the purpose and intent of this ordinance to promote and advance the Town's policy and reduce the loss of local agricultural resources by limiting circumstances under which any such operation may be considered a nuisance. It is hereby further legislatively determined that whatever impact may be caused to others through normal agricultural practices, such impact is offset and ameliorated by the benefits of farming to the neighborhood, community, and society in general. Methods of farming that comport with generally accepted farming practices are also deemed to comport with community standards at large. This ordinance is not to be construed as modifying or abridging state law relative to the abatement of nuisances, but is to be used in the interpretation and characterization of activities and in considering and implementing enforcement of the provisions of the Ordinances of the Town of Kent and other applicable Town regulations, consistent with the provisions of Connecticut General Statutes § 19a-341. Additionally, the terms of this ordinance may be used in determining whether the methods and practices that may come under review conform to community standards.

Declaration.

No present or future agricultural operations conducted or maintained in a manner consistent with accepted customs and standards of the agricultural industry, on a recognized farm which is engaged in the act of farming as defined in this ordinance, shall become or be considered a nuisance solely because such activity resulted or results in any changed condition of the use of adjacent land. Agricultural operations may occur on holidays, weekends and weekdays by night or day, provided such activities do not violate applicable health, safety, fire, life safety or building codes and regulations. It is herein understood that such practices may include without limitation:

1. The incidental noise from livestock or farm equipment;
2. Odors from livestock, manure, fertilizer, compost, agricultural end-products, or feed;
3. Dust and fumes created during plowing or cultivation operations;
4. The use of agricultural chemicals, pesticides and fertilizers including manure, provided such chemicals and the method of their application conform to practices approved by the Commissioner of the Department of Energy and Environmental Protection, or, where applicable, Commissioner of Health Services; and
5. Irrigation and water management associated with normally accepted farming practices.

These provisions shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation.

Definitions.

“Agriculture” means cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale.

“Agricultural Operations” means activities relating to agricultural use including, but not limited to, the cultivation and tillage of soil, the burning, processing, or composting of agricultural waste products or other agricultural burning, processing or composting, provided that such composting activity shall not be the sole or primary agricultural operation, protection of crops and livestock from insects, diseases, birds, predators or other pests from damaging or potentially damaging crops, the proper and lawful use of agricultural chemicals including but not limited to the application of pesticides and fertilizers, or the raising, production, irrigation, pruning, harvesting, or processing of an agricultural commodity, including any type of crop or livestock, and any forestry improvements and timber harvesting and processing. Such operations also include the operation and transportation of farm equipment over roads within the Town and conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided the activities are related to marketing the agricultural output or services of the farm and local produce and livestock products and provided same do not conflict with any provisions of the zoning regulations. For purposes of this ordinance, such operations do not include the slaughtering of animals not raised on the premises where they are to be slaughtered.

“Farm” means land used primarily for agricultural activities including:

- agriculture, nurseries, orchards, ranges, forestry, nursery or truck gardening, or for raising or keeping of livestock and fowl but excluding the raising of animals for laboratory use or for their fur,
- farm buildings and accessory buildings thereto including barns, silos, greenhouses, hoop-houses and other temporary structures or other structures, and
- as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities.

“Locally” for the purposes of this ordinance shall mean all Connecticut counties as well as Dutchess, Columbia and Putnam Counties in New York; and Berkshire County in Massachusetts.

Dispute Resolution and Advisory Opinions.

An interested person may submit a written request to the First Selectman's office for an opinion as to whether a particular agricultural operation constitutes a nuisance or is an activity that is incidental to normal and customary farming activity and comports with community standards. In the event a dispute arises between an agricultural operator and a resident in the Town of Kent as to whether a particular agricultural operation constitutes a nuisance, either interested party may submit a written request to the Selectmen for an advisory opinion or to mediate the dispute. The Selectmen may promulgate such regulations and procedures as it deems necessary for the implementation of this section. Nothing herein shall preclude any party from either appealing said advisory determination to the Superior Court for the Judicial District of Litchfield and/or commencing a direct action in said court to abate the claimed nuisance.

Passed: [date]

Published: [date]

Effective: [date]

DRAFT Right To Farm Ordinance – April 6 2015
Kent Conservation Commission

American Farmland Trust Right To Farm Laws Fact Sheet:

<http://farmland.org/programs/states/wa/documents/APPENDIXI-Righttofarmlaws.pdf>

Article on Torrington's Ordinance: <http://www.registercitizen.com/general-news/20130219/torrington-council-passes-right-to-farm-ordinance-2>

Brooklyn
Canterbury
Colchester
Columbia
Eastford
Franklin
Lebanon

New Milford: <http://ctplanningforagriculture.com/right-to-farm-newmilford.php>

North Stonington: <http://ctplanningforagriculture.com/right-to-farm-nostonington.php>

Pomfret

Thompson

Torrington:

Woodstock: <http://ctplanningforagriculture.com/right-to-farm-woodstock.php>

[http://www.sourcewatch.org/index.php?title=Right to Farm Laws](http://www.sourcewatch.org/index.php?title=Right_to_Farm_Laws)

<http://cga.ct.gov/2011/rpt/2011-R-0058.htm>

[http://www.cfba.org/images/resources/right to farm.pdf](http://www.cfba.org/images/resources/right_to_farm.pdf)



ORIGINAL

Donna Hayes <landuseadmin@townofkentct.org>

Fwd: Right To Farm Ordinance

Bruce Adams <firstselectman@townofkentct.org>

Wed, Apr 8, 2015 at 7:30 AM

To: Donna Hayes <landuseadmin@townofkentct.org>, Connie Manes <connie@manes-consulting.com>

----- Forwarded message -----

From: D. Randall DiBella <drdibella@crameranderson.com>

Date: Tue, Apr 7, 2015 at 4:32 PM

Subject: RE: Right To Farm Ordinance

To: Bruce Adams <firstselectman@townofkentct.org>

Hi Bruce

As you requested I have examined the proposed Right to Farm ordinance.

This proposed ordinance is a variation of the ordinance I co-wrote for New Milford in 2008 and revised in 2010. The language through the Declarations section is verbatim to (or from as it were) New Milford's except where it reads the "legislative determination of the BOS" in the second sentence, third line. That should read the "legislative body" which is the town meeting in Kent rather than the BOS.

I am concerned that the definition of "agriculture" which is taken from CGS 1-1q, is very broad and will be ultimately construed to include activities that are not local. Thus the way the statute and this proposed ordinance is phrased can be argued to include activities that are farm related but not farming. For instance warehousing and shipping of agricultural or farm production goods originating elsewhere. Under the proposed definition it might be argued, such warehousing and shipping is a protected activity. As remote as that might be it is an issue that I need to make you aware of. Additionally, the proposed ordinance appears to protect the warehousing, sale and display of crops and produce that are not necessarily local.

Having said that, clearly, one size does not necessarily fit all. My partner, Perley Grimes represents Cornwall. He took the New Milford ordinance and modified it for that town. I am unsure whether Cornwall adopted it, but I believe they wanted a very broad agricultural definition to include and protect organic fertilizer processing; something that NM eventually rejected. I significantly revised the NM ordinance in 2010 to address concerns about bringing materials from off site to a farm for composting as well as limiting composting as a side product as opposed to a primary activity. Those revisions are highlighted in the text of the NM ordinance which I have attached for your and the committee's review and use.

⑤

FYI there had been a number of complaints in NM by weekenders who, although they liked the quaintness of weekending in an agrarian community, hated the reality of liquefied manure in May and slamming truck doors at 5 am. That is why in New Milford I wrote-in the Litchfield County farming practices standards as controlling. That "standards" language is not present in the proposed Kent ordinance except as it relates to pesticides and fertilizers. I suggest it be considered. That language neutralizes the hired, out of state expert who declares that a local farm violating some theoretical standard.

Other than those comments and issues, the substance of the proposed ordinance is very broad and does indeed declare that generally accepted farming practices are not nuisance activities. I strongly suggest that those standards be articulated as those prevailing here. If enacted by the town meeting this will be the legislatively accepted standard in Kent and will be difficult to overcome in a nuisance claim. Finally, while obviously some in Kent have their own ideas of what makes good law, I would be quite circumspect in issuing a blanket imprimatur on all claimed farm activity. If the committee believes that such breadth is warranted, however, then it would be up to the town meeting to debate and vote the proposal.

Regards

Randy

From: Bruce Adams [mailto:firstselectman@townofkentct.org]
Sent: Monday, April 06, 2015 3:32 PM
To: D. Randall DiBella
Subject: Fwd: Right To Farm Ordinance

Randy,

See the following email and the attached Ordinance. Let me know what you think. P&Z is discussing it on Thursday night.

----- Forwarded message -----

From: Connie Manes <connie@manes-consulting.com>
Date: Mon, Apr 6, 2015 at 12:18 PM
Subject: Right To Farm Ordinance
To: firstselectman@townofkentct.org

Hi Bruce – I have another question for you related to Conservation Commission activity. The Commission was asked by the Planning & Zoning Commission to develop a Right To Farm Ordinance to accompany the revised regulations. The Commission researched what has been done in other CT towns, and has discussed two drafts based on what we learned and using definitions within the state RTF statute as well as Kent's definitions of farming and agriculture from our regs. We believe it is ready to move to the next steps within the Town's procedures (latest draft attached). I have not previously been involved with the passage of an ordinance. Does it next go to the Selectmen for review? To the Town Attorney?

MEMORANDUM

 ORIGINAL

To: Kent Planning and Zoning Commission

From: Kent Conservation Commission

Date: April 9, 2015

Re: Draft Right To Farm Ordinance

At the direction of the Kent Planning and Zoning Commission, the Kent Conservation Commission undertook to develop, over the course of the first quarter of 2015, a Right To Farm Ordinance to accompany the Zoning Regulations currently under review for the Town of Kent.

In so doing, the Conservation Commission reviewed relevant background on Right To Farm legislation nationally, at the state level in Connecticut, and locally within Connecticut. We reviewed and modeled our draft ordinance on legislation enacted in the towns of New Milford, Torrington, North Stonington, and Woodstock. This memorandum serves to accompany the draft and explain some of the Conservation Commission's determinations in drafting, and to respond to questions raised by Town Attorney Randy DiBella in an email dated April 7, 2015.

Purpose of Right To Farm Ordinances

The Connecticut Department of Agriculture confirms that "Zoning and subdivision regulations are the main regulatory tools a municipality may use to regulate and define agriculture." Supplemental to this it recommends as a non-regulatory approach that municipalities committed to making their communities more farm-friendly "Establish a right-to-farm ordinance to reaffirm your community's commitment to agriculture." Right to Farm laws protect farmers from people who might otherwise sue them for private nuisance and can help protect farmers from anti-nuisance ordinances and unreasonable controls on farming operations.

The draft ordinance does not supplant, supercede, or expand upon existing local, state and federal law governing farmers' use of land. It also does not, as stated within the draft, modify or abridge state law relative to the abatement of nuisances.

What it does is state the policy of the Town to support agriculture by qualifying what cannot be considered a nuisance. The ordinance does not protect against activities deemed to be nuisances due to the farmers' negligence or willful or reckless misconduct.

Definition of Agriculture

It is the advice of the CT DOAG that municipalities "adopt the State's definition of agriculture in your zoning regulations. Limiting the definition of agriculture town-by-town limits agriculture in our State and leads to conflicts as many farmers own land in more than one community."

In drafting the Right To Farm ordinance, the Conservation Commission purposely incorporated verbatim the definition of agriculture chosen for the draft Zoning Regulations under consideration by the Planning & Zoning Commission (see draft December 2014, Section 2.200). This definition is the State's definition, found within CGS Section 1-1q.

Mr. DiBella opines that using the State of Connecticut's definition of agriculture may be so broad as to invite dispute about activities that "are farm related but not farming." To the contrary, by clarifying that farming is farming, the broad definition avoids subjective interpretations seeking to separate and disqualify certain activities.

Broad vs. Narrowly Conscripted Characterization of Farming

As expressed by Connecticut's Commissioner of Agriculture, "Agriculture changes with time, as do all businesses." The intent of our ordinance is to encourage continued active agricultural activity within the Town of Kent, and reduce loss of agricultural resources by limiting circumstances under which farming may be considered a nuisance.

The draft ordinance contains the broad characterizations of "normal farming practices", "normal and customary farming activity" and "accepted customs and standards of the agricultural industry, on a recognized farm which is engaged in the act of farming as defined in this ordinance". These terms are among those commonly used within municipal and the State ordinance.

We carefully considered, and rejected, narrowing the delineation of farming to those practices "standard to Litchfield County" only, in order to avoid excluding from protection farming practices inconsistent with subjective interpretations of farming, practices which are new and innovative to our area, or practices which are currently more common in places outside of Litchfield County.

We believe the ordinance should remain broad with respect to its support of farming practices, and leave the regulation of such practices within existing structures of local, state and federal law.

We would not wish to deter new farm businesses from choosing Kent merely because that specific type of farm has not operated in Litchfield County before, or may strike some as unusual. Paradoxically, narrowing the ordinance in this way creates *an unnecessarily broad exclusion* of interests we seek to encourage and protect.

Farming Practices

Mr. DiBella's suggestions regarding the further circumscription of what may be considered farming, by limiting protections to activities which are practiced within Litchfield County are also points we considered and purposely rejected during our drafting process. Our intent was to create an instrument supportive of farming as defined, rather than farming as seen through the eyes of neighbors who as suggested by Mr. DiBella may dislike the smell of manure and/or are irritated by noise.

Contrary to Mr. DiBella's implication, this language is more likely to avoid rather than invite litigation, by avoiding the implication that farming practices in Litchfield County are vastly different from farming practices just over its borders, elsewhere in the region, or subject to popular interpretations regarding acceptable versus non-acceptable activities. And we reject the notion that litigants are any less likely to hire experts if a stricter standard is used, but do believe that litigation on the whole is less likely if neighbors are not afforded the opportunity to use untested, arguably subjective, and not commonly understood terminology which differs from that of the state.

In stating that this ordinance issues "a blanket imprimatur on all claimed farm activity," Mr. DiBella misconstrues the purpose of Right To Farm laws generally. The ordinance affords to farmers no rights to engage in activities they would otherwise be unable to do under relevant local, state and federal land use law. Farming will continue to be regulated, permitted and delimited by zoning regulations, state and federal use laws. The ordinance acts as a disincentive to nuisance suits filed against farmers for conducting lawful activity.

Local Products

As stated within the Purpose and Intent section, we believe that it is the intention of the Planning and Zoning Commission to "encourage agricultural operations and the sale of local farm products within the Town." Mr. DiBella opines that the ordinance as written "appears to protect the warehousing, sale and display of crops and produce that are not necessarily local."

The Commission discussed the meaning of "local", and whether and how to define that word in order to eliminate confusion and/or dispute about its meaning. Finding no commonly understood definition among regulatory agencies or within the industry, and after deliberation, we recommend that a definition including all of Connecticut; Dutchess, Columbia and Putnam Counties in New York; and Berkshire County in Massachusetts most accurately reflects a policy of encouraging local farming and the reality of evolving consumer purchase patterns for agricultural products by Kent residents and its visitors.

We take notice of Mr. DiBella's example of the New Milford composting facility, and his efforts to address concerns that off-farm products might be brought to the farm for processing. The New Milford ordinance defines "locally" to include all of Connecticut, and Putnam and Dutchess Counties in New York.

Suggestion regarding correct wording of adopting body

Attorney DiBella's observation that the wording within the "Purpose and Intent" section of the draft incorrectly represents that the ordinance would be the "legislative determination of the Kent Board of Selectman" is correct, and we agree that the draft should be amended to reflect the "legislative determination of the legislative body of Kent."

Attachments and Resources

Connecticut Department of Agriculture, A Guide for Municipalities, October 2014:
http://www.ct.gov/doag/lib/doag/marketing_files/2015/doag_municipalities_guide.pdf (and submitted as attachment)

Memorandum titled "Right-to-Farm Ordinances" by Kristen L. Miller, Legislative Analyst, submitted January 31, 2011 to the Connecticut General Assembly:
<http://cga.ct.gov/2011/rpt/2011-R-0058.htm>

Tool kit for Connecticut Farmers, published 2014 by the Connecticut Farm Bureau Association regarding Connecticut's Right to Farm law:
http://www.cfba.org/images/resources/right_to_farm.pdf (and submitted as attachment)

Planning for Agriculture: A Guide For Connecticut Municipalities, published online as a joint project of the Connecticut Conference of Municipalities and American Farmland Trust, and including a list of Connecticut towns with municipal Right To Farm laws, and links to some laws:
<http://ctplanningforagriculture.com/right-to-farm.php>